

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

LUPERCAL LLC,

Plaintiff

v.

BBVA USA BANCSHARES, INC.,

Defendant

Case No. 6:21-cv-00031

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Lupercal LLC (“Plaintiff” or “Lupercal”), through its attorneys, files this Complaint for patent infringement against BBVA USA Bancshares (“Defendant” or “BBVA”) and alleges as follows:

THE PARTIES

1. Lupercal is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Texas.
2. Defendant BBVA USA Bancshares, Inc. is a corporation organized and existing under the laws of Texas that maintains an established place of business at 15 20th Street, S Birmingham, Alabama 35233. Defendant can be served through its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

6. Venue is proper in this District under 28 U.S.C. § 1400(b), because Defendant has committed acts of patent infringement in this District and has an established place of business in this District. In addition, Plaintiff has suffered harm in this District.

COUNT I

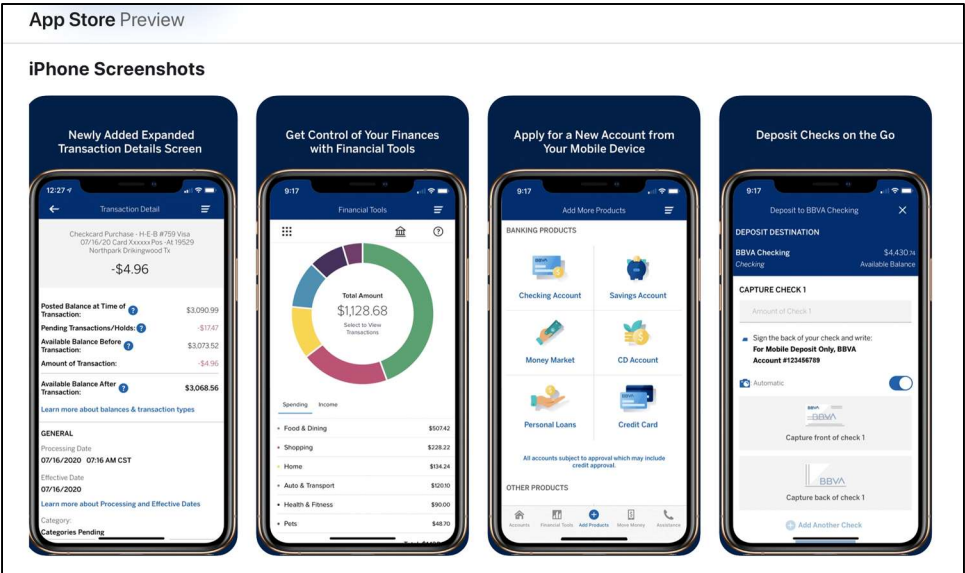
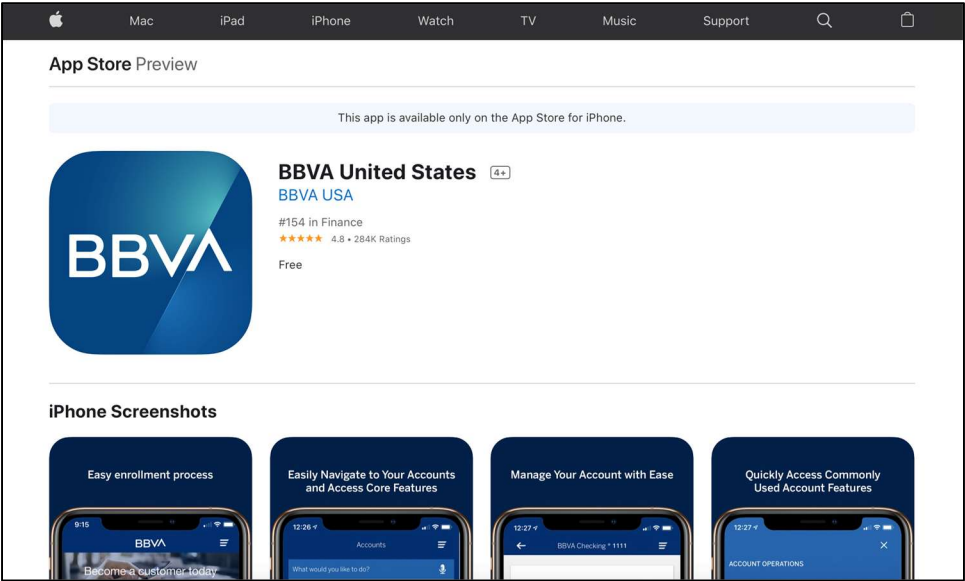
(INFRINGEMENT OF U.S. PATENT NO. 9,386,094)

7. Lupercal incorporates paragraphs 1 through 6 as though fully set forth herein.

8. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,386,094 (the “’094 Patent”), entitled SYSTEM AND METHOD FOR MEDIA SUBMISSION, which issued on July 5, 2016.

9. The ’094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Defendant provides the BBVA Compass Mobile Banking App for use with Apple iOS devices and Android devices, which is available for download from Apple’s iTunes App Store and Google Play Apps:



The BBVA Mobile Banking App has already been named a 'Leader' by Javelin Strategy & Research in its Mobile Banking Scorecard six times in a row, but it just got better! Version 9.0 has been completely redesigned to give you faster access to the features that you already love and need, all with a fresh look and feel, both in English and Spanish.

Better Navigation: The new main navigation bar allows you to quickly access the most used features from all key areas of the app easily from the bottom of most screens. Plus, when navigating through your accounts, the new quick action bars will allow you to manage your accounts and customize features in less taps.

Transaction Details: See more clearly how a transaction has impacted your available balance, with improved details for posted and pending transactions. We have also added a warning badge to let you know if a transaction has been posted against insufficient funds.

Improved Dashboard: See all of your accounts and cards, from BBVA and other financial institutions, in one place for a full financial picture.

Alongside these improvements, there's a fresh new look for all of the existing features that help you manage your money in an efficient way:

Find Features Fast: Use the search feature to tell us what you'd like to do. Use your voice or start typing for predictive search results to get answers faster.

Other features include:

Financial Tools to track your Spending and create Budgets

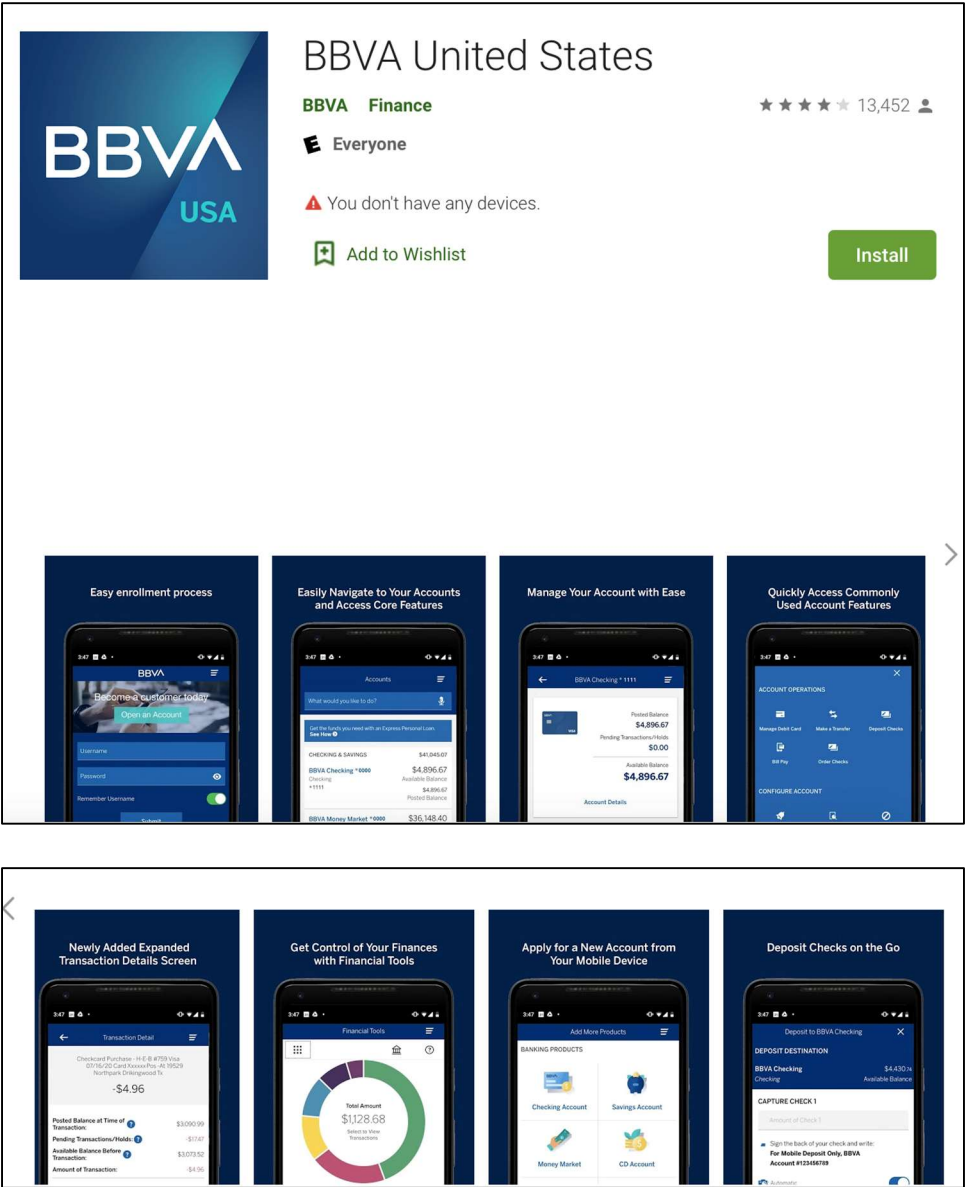
Save time paying bills by setting up AutoPay

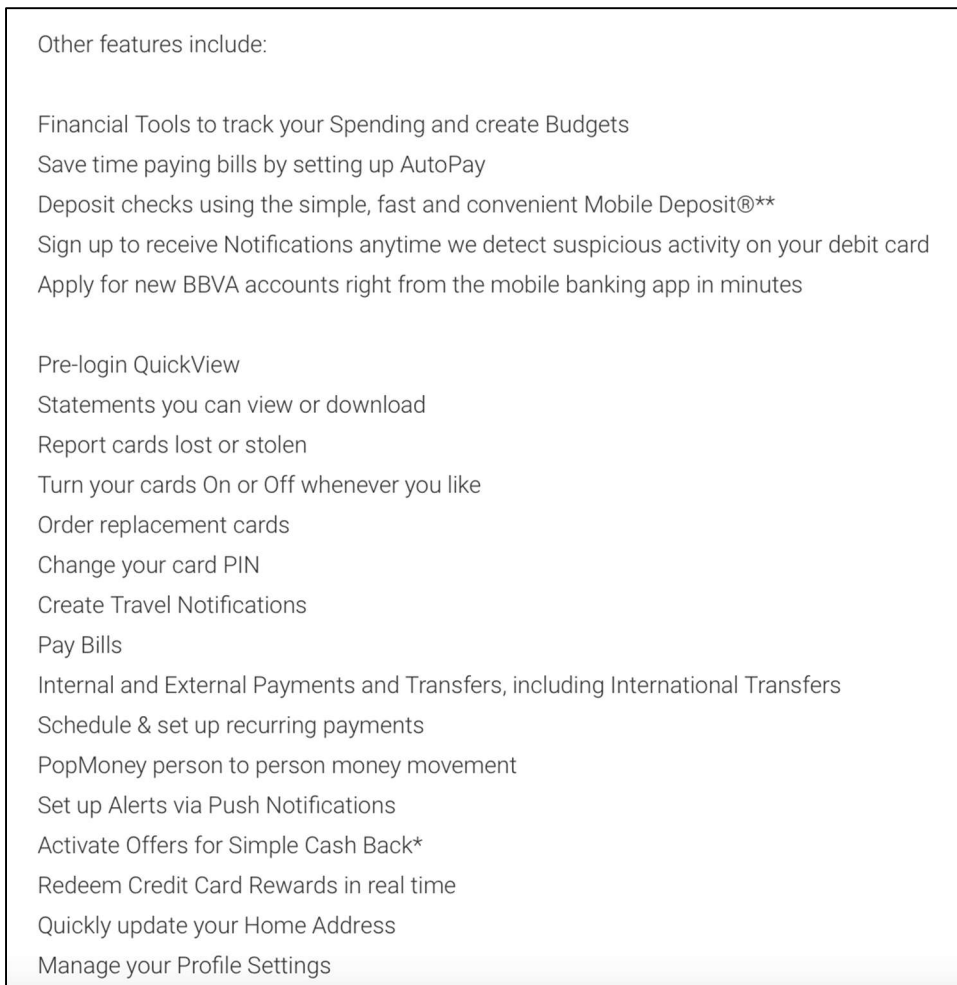
Deposit checks using the simple, fast and convenient Mobile Deposit®**

Sign up to receive Notifications anytime we detect suspicious activity on your debit card

Apply for new BBVA accounts right from the mobile banking app in minutes

<https://apps.apple.com/us/app/bbva-compass-mobile-banking/id969671652>

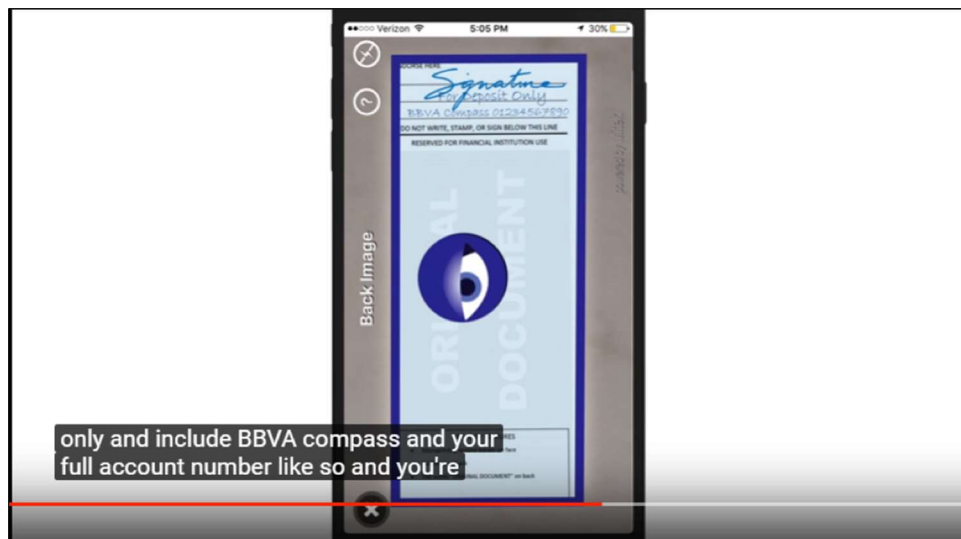
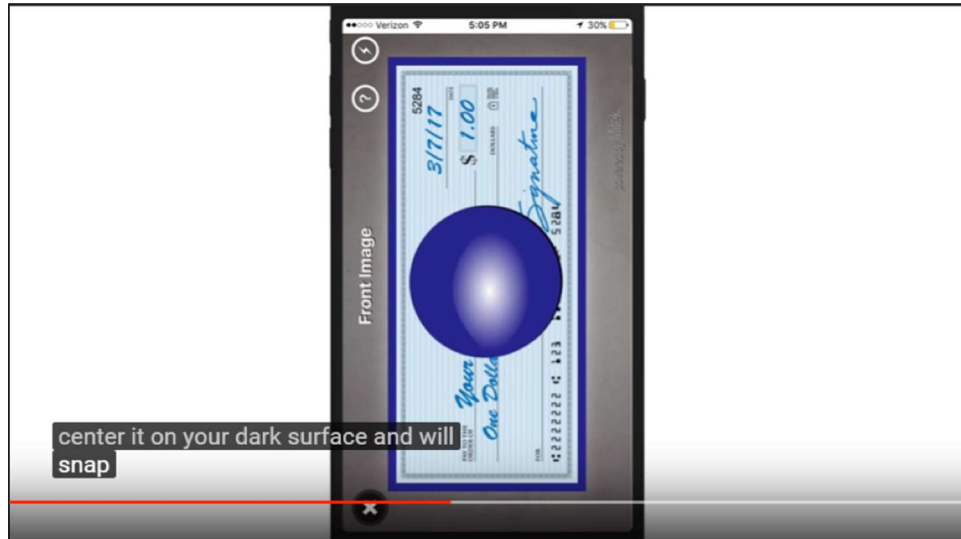


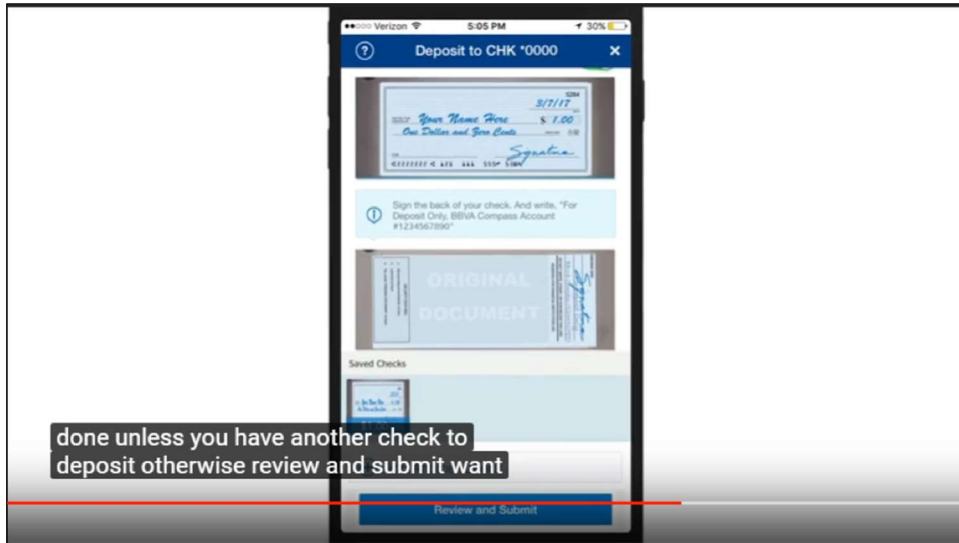


<https://play.google.com/store/apps/details?id=com.bbva.compassBuzz>

11. The BBVA Compass App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

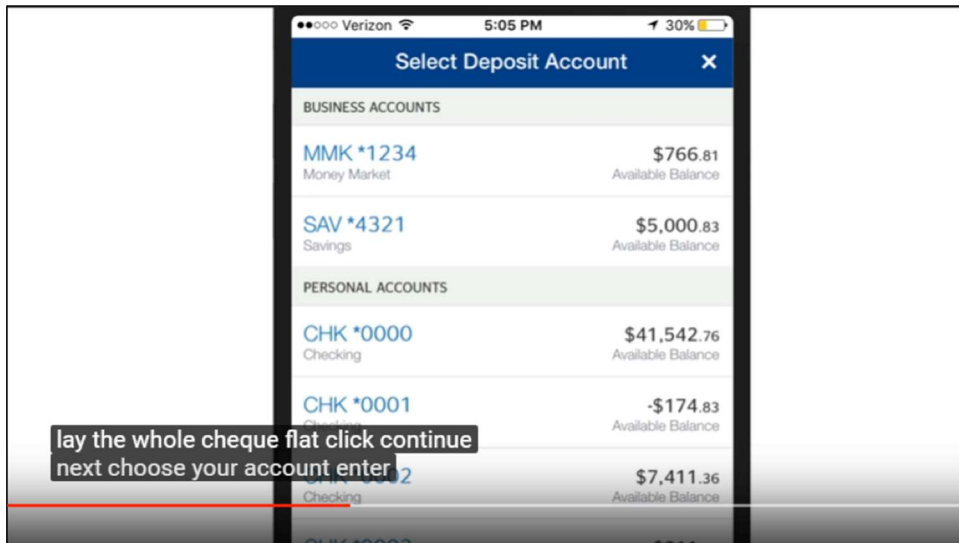
12. The photo of the front and back is manually taken by the user – as a result, the images produced may be blurry or otherwise undesirable, and the application enables the user to retake a given photo (front or back). A visual representation of the photos is displayed on the screen.

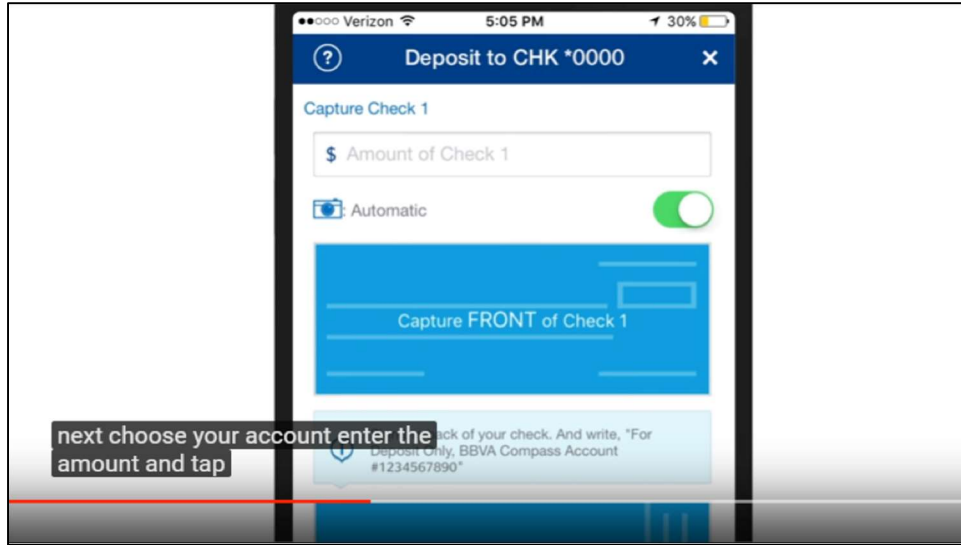




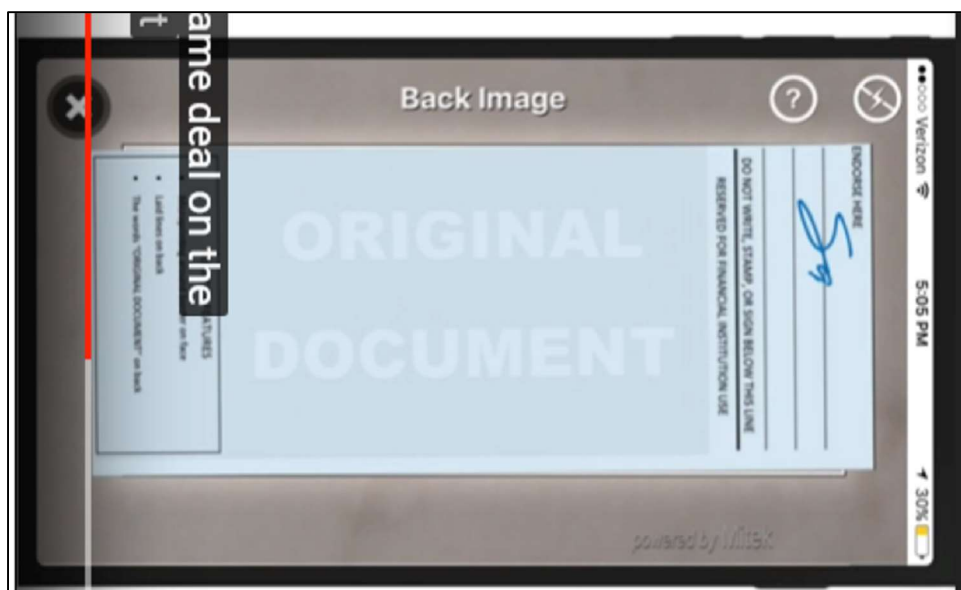
<https://www.youtube.com/watch?v=8qLx8mGxRIU>

13. After selecting an account to deposit the check to, the user enters the amount of the check.





14. Upon being accepted by the user (via the BBVA Compass App), the application pre-processes the front and back images to produce and front and back pre-processed images that is controlled by one or more preprocessing parameters received from a device (e.g., a server used to download the BBVA Compass App) separate from the user device (user's smart phone) in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.



Details you need to make a smart decision

* Mobile Deposit is subject to eligibility and further review. Deposits are subject to verification and not available for immediate withdrawal. Deposit limits and other restrictions apply. See Terms of Use for details, including information on funds availability. Mobile Deposit® is a registered trademark of Mitek Systems, Inc.

<https://www.bbvacompass.com/digital-banking-services/mobile-banking/check-deposit.html>

15. Defendant controls the operation and use of the BBVA Compass Mobile Banking App and encourages its customers to use the BBVA Compass Mobile Banking App to deposit checks to the customer's accounts with Defendant. The Defendant's BBVA Compass Mobile Banking App is the Accused Instrumentality through which Defendant and its customers infringe the '094 Patent.

16. At least by developing, distributing, operating, promoting, and encouraging the use of the BBVA Compass Mobile Banking App, Defendant encourages its customers to use the BBVA Compass Mobile Banking App to practice the claimed methods, which Defendant controls the use of and derives a direct benefit and profit from.

17. Upon information and belief, defendant has infringed and continues to infringe one or more claims, including claim 42, of the '094 Patent by developing, distributing, operating, promoting, and encouraging the use of the BBVA Compass Mobile Banking App in the United States without authority. Defendant has infringed and continues to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

18. Defendant has been on notice of the '094 Patent as least as early as January 15, 2019 when it received a notice letter from Plaintiff, which included a claim chart comparing the '094 Patent claims to the BBVA Compass Mobile Banking App.

19. Claim 42 recites:

42. A computer implemented method performed by an image submission tool on a user device, comprising:

causing the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images;

causing the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images;

causing the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from

a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for the use by a receiving party;

causing the image submission tool to enable a user to submit the one or more pre-processed images; and

causing the image submission tool to transmit the one or more pre-processed images.

20. As indicated above, the BBVA Compass Mobile Banking App enables account holders to deposit check electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

21. More particularly, the BBVA Compass Mobile Banking App is a computer implemented method performed by an image submission tool on a user device.

22. In the process of using the BBVA Compass Mobile Banking App, the computer implemented method causes the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images.

23. In the process of using the BBVA Compass Mobile Banking App, the computer implemented method causes the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images.

24. In the process of using the BBVA Compass Mobile Banking App, the computer implemented method causes the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

25. In the process of using the BBVA Compass Mobile Banking App, the computer implemented method causes the image submission tool to enable a user to submit the one or more pre-processed images.

26. In the process of using the BBVA Compass Mobile Banking App, the computer implemented method causes the image submission tool to transmit the one or more pre-processed images.

27. Lupercal has been damaged by Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Lupercal requests that this Court enter judgment against Defendant:

- A. declaring that the Defendant has infringed the '094 Patent;
- B. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '094 Patent;
- C. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
- D. granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: January 13, 2020

Respectfully Submitted

/s/ *Raymond W. Mort, III*

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